



# *COMMONWEALTH of VIRGINIA*

## *DEPARTMENT OF ENVIRONMENTAL QUALITY*

### VALLEY REGIONAL OFFICE

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## **STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO PILLAR ENTERPRISE, LTD. FOR PILLAR ENTERPRISE, LTD. Registration No. 81757**

### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Pillar Enterprise, LTD. regarding the Pillar Enterprise, LTD. facility for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable regulations.

### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

4. "Facility" means the Pillar, LTD. facility, located at 201 Riding Lane in White Post, Virginia.
5. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
6. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
7. "Permit" means a minor New Source Review permit to construct and operate a fabricated steel manufacturing facility which was issued under the Virginia Air Pollution Control Law and the Regulations to Pillar on April 23, 2018, and a modified Permit on February 19, 2019.
8. "Pillar" means Pillar Enterprise, LTD. a corporation authorized to do business in Virginia, and its affiliates, partners, and subsidiaries. Pillar is a "person" within the meaning of Va. Code § 10.1-1300.
9. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" means 9 VAC 5 chapters 10 through 80.
10. "Va. Code" means the Code of Virginia (1950), as amended.
11. "VAC" means the Virginia Administrative Code.
12. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

#### **SECTION C: Findings of Fact and Conclusions of Law**

1. Pillar owns and operates a fabricated steel manufacturing facility, located at 201 Riding Lane, in White Post, Virginia. The Facility is the subject of the Permit which allows Pillar to construct and operate the fabricated structural steel manufacturing Facility. Berlin Steel is the parent company of and owns Pillar.
2. On December 8, 2017, Pillar submitted a Form 7 Air Permit Application (Form 7) to DEQ for the Facility. Pillar reported in the permit application that new equipment installation and operation commenced in January 2013. DEQ had no record of permit coverage for the Facility. The Form 7 was incomplete. Pillar submitted a modified Form 7 at the request of DEQ on January 9, 2018, January 17, 2018, February 13, 2018, and March 23, 2018.
3. 9 VAC 5-80-1120.A. states that: "No owner or other person shall begin actual construction of, or operate, any new stationary source or any project subject to this article

without first obtaining from the board a permit under the provisions of this article.”

4. 9 VAC 5-80-1210.E. states that: “Any owner who constructs or operates a new or modified source not in accordance with the terms and conditions of any permit to construct or operate, or any owner of a new or modified source subject to this article who commences construction or operation without receiving a permit hereunder, shall be subject to appropriate enforcement action including, but not limited to, any specified in this section.”
5. On January 22, 2018, DEQ issued NOV No. AVRO000777-001 to Pillar for construction and operation of air equipment at the Facility which required permitting.
6. On February 14, 2018, DEQ met with Pillar and Berlin Steel representatives and discussed next steps towards compliance, including compliance assistance from DEQ Air Compliance staff. Pillar agreed to submit operational records for the number of hours the equipment had operated.
7. On March 23, 2018, DEQ deemed Pillar’s Form 7 as complete.
8. On April 6, 2018, Pillar submitted documentation detailing the operational hours of the Facility as Monday through Thursday, 6:30AM to 4:30PM, with potential overtime allowances on Friday and Saturday. The total number of hours the production and operation since 2013 was 12,641.50 hours.
9. On April 23, 2018, DEQ issued Pillar a permit to construct and operate a fabricated steel manufacturing facility, under Registration No. 81757. On September 7, 2018, Pillar submitted a Form 7 for a minor Permit modification, and DEQ issued a modified Permit to Pillar on September 18, 2018. On January 18, 2019, Pillar submitted a Form 7 to increase the throughput of the welding electrode in order to meet increasing customer demand and DEQ issued the modified, superseding Permit to Pillar on February 19, 2019.
10. On February 8, 2019, DEQ staff received the 2018 annual update submitted for operations at Pillar. The annual update indicated a throughput of 20,984 pounds of welding electrode for section 3-3-1 Flux Cored Arc Welding (FCAW-G). The Permit throughput limit was 20,304 pound per year for 2018.
11. Condition 15 of the Permit states: “The throughput of welding electrode to the welding operations (Ref. Weld) shall not exceed 20,304 pounds per year, calculated monthly as the sum of each consecutive 12-month period.”
12. On February 19, 2019, DEQ issued NOV No. AVRO001118-001 to Pillar for the welding electrode throughput violation at the Facility.
13. Additionally, on February 19, 2019, DEQ issued a significant amendment to Pillar’s new source review permit dated September 24. Permit changes were reflected in Conditions 15 and 20. The amended permit superseded Pillar’s Permit dated September 24, 2018.

14. On February 28, 2019, DEQ staff met with Pillar representatives for compliance assistance and to discuss the NOV. Pillar stated that the modified Permit, which increased the welding electrode throughput, was sufficient to maintain future compliance.
15. On March 8, 2019, Pillar submitted documentation to DEQ, stating that the throughput was exceeded for the months of December 2018 and January 2019.
16. Based on the results of the February 14, 2018 meeting, and the documentation submitted by Pillar on December 8, 2017, January 9, 2018, January 17, 2018, February 13, 2018, March 23, 2018, January 18, 2019, February 8, 2019, and March 8, 2019, the Board concludes that Pillar has violated 9 VAC 5-80-1120.A, 9 VAC 5-80-1210.E, and Permit Condition 11 as described in paragraphs C(2) through C(16), above.
17. Pillar has submitted documentation that verifies that the violations described in paragraphs C(3), C(4), and C(12), above, have been corrected.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Pillar and Pillar agrees to:

Pay a civil charge of \$26,130.30 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Pillar shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Pillar shall be liable for attorneys' fees of 30% of the amount outstanding.

#### **SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend this Order with the consent of Pillar for good cause shown by Pillar or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.

2. This Order addresses and resolves only those violations specifically identified in Section C of this Order, in NOV No. AVRO000777-001 dated January 22, 2018, and NOV No. AVRO001118-001 dated February 19, 2019. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Pillar admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Pillar consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Pillar declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Pillar to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Pillar shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Pillar shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Pillar shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;

- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

- 9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and Pillar. Nevertheless, Pillar agrees to be bound by any compliance date which precedes the effective date of this Order.
- 11. This Order shall continue in effect until:
  - a. the Director or his designee terminates the Order after Pillar has completed all of the requirements of the Order;
  - b. Pillar petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Pillar.


Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Pillar from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 12. Any plans, reports, schedules or specifications attached hereto or submitted by Pillar and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
- 13. The undersigned representative of Pillar certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Pillar to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Pillar.
- 14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no

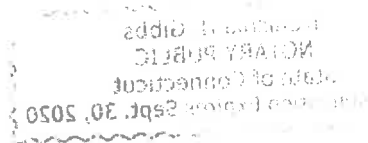
representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, Pillar voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 2<sup>nd</sup> day of April, 2019.

  
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Amy T. Owens, Regional Director  
Department of Environmental Quality

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Pillar Enterprise, LTD. voluntarily agrees to the issuance of this Order.

Date: 3-29-19 By: [Signature], VPO  
(Person) (Title)  
Pillar Enterprise, LTD.

State of CT  
~~Commonwealth of Virginia~~  
City/County of Hartford

The foregoing document was signed and acknowledged before me this 29<sup>th</sup> day of March, 2019, by Mark Laioie who is VP of operations of Pillar Enterprise, LTD., on behalf of the corporation.

[Signature]  
Notary Public

Registration No.

My commission expires: 9/30/20

Trenishia N. Gibbs  
NOTARY PUBLIC  
State of Connecticut  
My Commission Expires Sept. 30, 2020

